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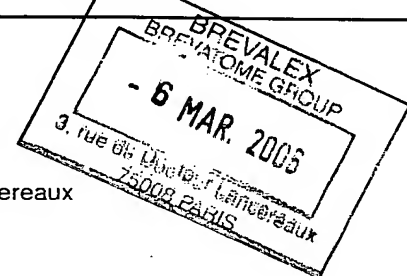
PCT

NOTIFICATION DE TRANSMISSION DE COPIES
DE LA TRADUCTION DU RAPPORT D'EXAMEN
PRÉLIMINAIRE INTERNATIONAL
SUR LA BREVETABILITÉ (CHAPITRE I OU CHAPITRE II
DU TRAITE DE COOPERATION EN MATIERE DE BREVETS)

(règles 44bis.3.c) et 72.2 du PCT)

Destinataire :

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FRANCE



| | |
|--|--|
| Date d'expédition (jour/mois/année) 02 mars 2006 (02.03.2006) | NOTIFICATION IMPORTANTE |
| Référence du dossier du déposant ou du mandataire SP 22335/HM | |
| Demande internationale n° PCT/FR2004/050111 | Date du dépôt international (jour/mois/année) 17 mars 2004 (17.03.2004) |
| Déposant ACTERNA IPMS etc | |

1. Transmission de la traduction au déposant.



Le Bureau international transmet ci-joint copie de la traduction en langue anglaise du rapport préliminaire international sur la brevetabilité (chapitre I).



Le Bureau international transmet ci-joint copie de la traduction en langue anglaise du rapport préliminaire international sur la brevetabilité (chapitre II).

2. Transmission d'une copie de la traduction aux offices désignés ou élus.

Le Bureau international notifie au déposant qu'une copie de cette traduction a été transmise aux offices désignés ou élus suivants qui exigent la traduction en question:

Aucun

Les offices désignés ou élus suivants ayant renoncé à l'exigence selon laquelle la transmission doit être effectuée à cette date recevront une copie de cette traduction du Bureau international seulement à leur demande:

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3. Rappel concernant la traduction dans la ou l'une des langues officielles de l'office ou des offices élus.

Il est rappelé au déposant que, lorsqu'une traduction de la demande internationale doit être remise à un office élu, cette traduction doit comporter la traduction de toute annexe du rapport préliminaire international sur la brevetabilité (chapitre II).

Il appartient au déposant d'établir la traduction en question et de la remettre directement à chaque office élu intéressé dans le délai applicable (règle 74.1). Voir le volume II du Guide du déposant du PCT pour de plus amples renseignements.

| | |
|--|---|
| Bureau international de l'OMPI 34, chemin des Colombettes 1211 Genève 20, Suisse | Fonctionnaire autorisé Beate Giffo-Schmitt |
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TRAITÉ DE COOPÉRATION EN MATIÈRE DE BREVETS

PCT

RAPPORT PRÉLIMINAIRE INTERNATIONAL SUR LA BREVETABILITÉ

(chapitre I du Traité de coopération en matière de brevets)

(règle 44bis du PCT)

| | | | |
|--|--|---|----------------------------|
| Référence du dossier du déposant ou du mandataire SP 22335/HM | POUR SUITE À DONNER | | Voir le point 4 ci-dessous |
| Demande internationale no. PCT/FR2004/050111 | Date du dépôt international (<i>jour/mois/année</i>) 17 March 2004 (17.03.2004) | Date de priorité (<i>jour/mois/année</i>) 19 March 2003 (19.03.2003) | |
| Classification internationale des brevets (8 ^e édition, sauf indication d'une #dition ant#rieure) Voir les informations pertinentes dans le formulaire PCT/ISA/237 | | | |
| Déposant ACTERNA IPMS | | | |

1. Le présent rapport préliminaire international sur la brevetabilité (chapitre I) est établi par le Bureau international au nom de l'administration chargée de la recherche internationale selon la règle 44bis.1.a).

2. Ce RAPPORT comprend un total de 6 feuilles, y compris la présente feuille de couverture.

Dans les feuilles jointes, toute référence à l'opinion écrite de l'administration chargée de la recherche internationale doit être entendue, à la place, comme une référence au rapport préliminaire international sur la brevetabilité (chapitre I).

3. Le présent rapport contient des indications relatives aux points suivants :

- | | | |
|-------------------------------------|---------------|---|
| <input checked="" type="checkbox"/> | Cadre n° I | Base de l'opinion |
| <input type="checkbox"/> | Cadre n° II | Priorité |
| <input type="checkbox"/> | Cadre n° III | Absence de formulation d'opinion quant à la nouveauté, l'activité inventive et la possibilité d'application industrielle |
| <input type="checkbox"/> | Cadre n° IV | Absence d'unité de l'invention |
| <input checked="" type="checkbox"/> | Cadre n° V | Déclaration motivée selon l'article 35.2) quant à la nouveauté, l'activité inventive et la possibilité d'application industrielle; citations et explications à l'appui de cette déclaration |
| <input type="checkbox"/> | Cadre n° VI | Certains documents cités |
| <input type="checkbox"/> | Cadre n° VII | Certaines irrégularités relevées dans la demande internationale |
| <input type="checkbox"/> | Cadre n° VIII | Certaines observations relatives à la demande internationale |

4. Le Bureau international communiquera le présent rapport aux offices désignés conformément aux règles 44bis.3.c) et 93bis.1 mais pas avant l'expiration du délai de 30 mois à compter de la date de priorité (règle 44bis.2), sauf si le déposant a présenté une requête expresse à cet égard en vertu de l'article 23.2).

| | |
|---|---|
| Date d'établissement du présent rapport 21 February 2006 (21.02.2006) | |
| Bureau international de l'OMPI 34, chemin des Colombettes 1211 Geneva 20, Switzerland no de télécopieur +41 22 740 14 35 | Fonctionnaire autorisé Beate Giffo-Schmitt no de téléphone : +41 22 338 87 20 |

PATENT COOPERATION TREATY

Translation

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:

Date of mailing
(day/month/year)

Applicant's or agent's file reference

SP 22337/HM

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/FR2004/050111

International filing date (day/month/year)

17.03.2004

Priority date (day/month/year)

19.03.2003

International Patent Classification (IPC) or both national classification and IPC

Applicant

ACTERNA IPMS

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP

Authorized officer

Facsimile No.

Telephone No.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/FR2004/050111

Box No. I Basis of this opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language
_____, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/FR2004/050111

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

| | | |
|-------------------------------|------------|-----|
| Novelty (N) | Claims 1-8 | YES |
| | Claims | NO |
| Inventive step (IS) | Claims 1-8 | YES |
| | Claims | NO |
| Industrial applicability (IA) | Claims 1-8 | YES |
| | Claims | NO |

2. Citations and explanations:

Reference is made to the following documents:

- D1: LAI K *et al.* : "Measuring bandwidth" INFOCOM 1999, EIGHTEENTH ANNUAL JOINT CONFERENCE OF THE IEEE COMPUTER AND COMMUNICATIONS SOCIETIES. PROCEEDINGS. IEEE NEW YORK, NY, USA 21-25 MARCH 1999, PISCATAWAY, NJ, USA, IEEE, US, 21 March 1999, pages 235-245, XP01323735 ISBN: 0-7803-5417-6
- D2: EP-A-1 047 223 (KDD CORP) 25 October 2000
- D3: EP-A-0 522 211 (HEWLETT PACKARD CO) 13 January 1993
- D4: VERN PAXSON_ "MEASUREMENTS AND ANALYSIS OF END-TO-END INTERNET DYNAMICS" PH.D. THESIS-UNIVERSITY OF CALIFORNIA, BERKELEY, April 1997, XP002155824

1. Document D1 considered as representing the nearest prior art, describes a method for calculating the passband wherein the passband is calculated gradually. That is to say that on arrival of each packet, a new estimate of the passband is calculated.

- 1.1 The subject matter of claim 1 differs from D1, in that the claim contains the steps of
- associating near-simultaneously to the issued packets a same identifier;
 - identifying and selecting the received packets with the same identifier;
 - selecting the greatest possible entire number m of groups of packets having the same identifier.

1.2 Therefore, the subject matter of claim 1 is novel (PCT Article 33(2)).

1.3 Therefore, the problem which the present invention proposes to solve can be considered as the calculation of the passband, namely of a network between a first point and a second point in a given specific moment.

1.4 The solution of this problem proposed by claim 1 of the present application is considered as involving an inventive step (PCT Article 33(3)).

D1 describes the calculation of the evolving passband during the transmission of the packets of data.

D2 and D3 describe a process for the passband calculation based on packets of tests introduced in the network.

D4 describes an evolving process as in D1.

1.5 Therefore, none of documents D1-D4 describe either the problem or its solution. Further, a combination of D1 with one of documents D2-D4 would not result in a process according to claim 1.

2. Therefore, independent claim 8 corresponds to claim 1 and a similar reasoning is applicable.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/FR2004/050111

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

3. Claims 2-7 are dependent on claim 1 and as such also meet the requirements of novelty and inventive step of the PCT.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/FR2004/050111

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement